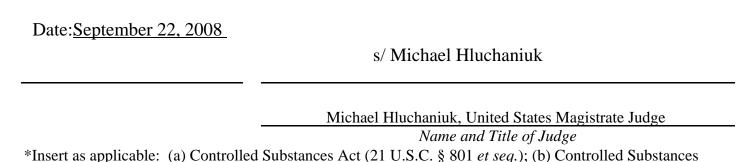
## UNITED STATES DISTRICT COURT

EASTERN		District of	MICHIGAN
U	NITED STATES OF AMERICA		
	<b>V.</b>	ORDE	R OF DETENTION PENDING TRIAL
k	KENNETH FLUELLEN, JR.	Case	4:08-CR-20481
	Defendant		
In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.			
Part I—Findings of Fact			
	1) The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and has been convicted of a		
(3) A	a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. § 3142(f)(1)(A)-©, or comparable state or local offenses.  The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.  A period of not more than five years has elapsed since the date of conviction release of the defendant from imprisonment for the offense described in finding (1).		
☐ (4) Fir	Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an) other person(s) and the community. I further find that the defendant has not rebutted this presumption.		
Alternative Findings (A)			
X (1) Th	There is probable cause to believe that the defendant has committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in under 18 U.S.C. § 924©.		
(2) Th		lished by finding 1 that no c	ondition or combination of conditions will reasonably assure
	the appearance of the defendant as required and the safety of the community.		
Alternative Findings (B)			
	ere is a serious risk that the defendant will not appere is a serious risk that the defendant will endang		son or the community.
_ _ _			
Part II—Written Statement of Reasons for Detention  I find that the credible testimony and information submitted at the hearing establishes by X clear and convincing evidence a preponderance of the evidence that			
detention is appropriate in this matter. The information presented at the hearing reveals that at the time of			
the defendant's arrest he was in a vehicle in which two loaded handguns, a loaded assault rifle, and body			
armor were found. Loaded weapons, particularly an assault rifle, and body armor clearly evidence an intent to			

detention is appropriate in this matter. The information presented at the hearing reveals that at the time of the defendant's arrest he was in a vehicle in which two loaded handguns, a loaded assault rifle, and body armor were found. Loaded weapons, particularly an assault rifle, and body armor clearly evidence an intent to employ violence for some purpose which is an obvious danger to the community. 18 U.S.C. 3142(g) outlines factors to be considered in determining the release of an individual. Among these factors are the nature of the offense and the history and characteristics of the person, including past conduct. Factors that weigh in favor of the defendant are his family and residential ties to this area, as well as the fact that he is currently attending school. However, the facts presented at the hearing regarding the firearms and body armor and the current charges against him outweigh any ties he may have to the community. Based upon the information presented at the hearing, and considering the severity of the charges pending and the presumption in favor of detention, I find by clear and convincing evidence that the defendant poses a danger to the community. He shall be detained without bond pending trial in this matter.

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.



Import and Export Act (21 U.S.C. § 951 et seq.); or © Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).

## **CERTIFICATE OF SERVICE**

I hereby certify that on <u>September 22, 2008</u>, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send such notification of such filing to the following: <u>Nancy A. Abraham, AUSA</u>, <u>David A. Koelzer, Esq., Richard D. Korn, Esq.</u>, and I hereby certify that I have mailed by United States Postal Service/hand delivered the paper to the following non-ECF participants: <u>United States Marshal Service</u>, 600 Church St., Flint, MI, 48502, Pretrial Services Officer, 600 Church St., Flint, MI 48502.

s/James P. Peltier
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